

Assembly Bill No. 1243

CHAPTER 15

An act to amend Section 7051.3 of the Revenue and Taxation Code, relating to taxation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor April 6, 1998. Filed with
Secretary of State April 7, 1998.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1243, Granlund. Local sales and use taxes: allocation.

The Sales and Use Tax Law and the Bradley-Burns Uniform Local Sales and Use Tax Law impose a tax on the storage, use, or other consumption in this state of tangible personal property purchased from any retailer. Existing law authorizes the State Board of Equalization to issue use tax direct payment permits, under certain circumstances, so that any permitholders may pay the use tax liability directly to the board. Existing law also requires the board to allocate local use taxes not reported to a county, city, city and county, or redevelopment agency based on the distribution of those local use taxes in the prior quarter.

This bill would delete those provisions that require the board to allocate local use taxes not reported to a county, city, city and county, or redevelopment agency based on the distribution of those local use taxes in the prior quarter.

This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 7051.3 of the Revenue and Taxation Code is amended to read:

7051.3. (a) "Use tax direct payment permit" means a permit issued by the board that allows a taxpayer to self-assess and pay state and local use tax under Part 1 (commencing with Section 6001), Part 1.5 (commencing with Section 7200), and if otherwise applicable, Part 1.6 (commencing with Section 7251), and Part 1.7 (commencing with Section 7280) directly to the board.

(b) Every person seeking to pay use taxes directly to the board shall file an application for a use tax direct payment permit. An application for a use tax direct payment permit shall be made upon a form prescribed by the board and shall set forth the name under which the applicant transacts or intends to transact business, the location of the place or places of business where the applicant intends

to make direct payment of use tax, and any other information that the board may require. An applicant for a use tax direct payment permit may register as a place to make direct payment of use tax, any of the places of business in this state that the applicant expects to be a place of first use for purchases subject to use tax, in accordance with the requirements of subdivision (d). The application shall be signed by the owner, if a natural person; in the case of an association or partnership, by a member or partner; and in the case of a corporation, by an executive officer or some person specifically authorized by the corporation to sign the application.

(c) Pursuant to an application, a use tax direct payment permit shall be issued to any person who meets all of the following conditions:

(1) The applicant agrees to self-assess and pay directly to the board any use tax liability incurred under this section.

(2) The applicant certifies to the board either of the following:

(A) The applicant is the purchaser for its own use or is the lessee of tangible personal property at a cost of five hundred thousand dollars (\$500,000) or more in the aggregate, during the calendar year immediately preceding the application for the permit.

(B) The applicant is a county, city, city and county, or redevelopment agency.

(d) Any person who holds a valid use tax direct payment permit shall self-assess and pay directly to the board use taxes due under this part, Part 1.5 (commencing with Section 7200), and if otherwise applicable, Part 1.6 (commencing with Section 7251), and Part 1.7 (commencing with Section 7280) for all purchases subject to use tax for which a use tax direct payment exemption certificate was issued, and shall report on the tax return required to be filed by Section 6452, the amount of local use tax applicable to each county, city, city and county, or redevelopment agency in which the first “use,” as defined in Section 6009, occurs.

(e) The board shall allow any holder of a use tax direct payment permit to issue a use tax direct payment certificate to any registered retailer or seller subject to all of the following:

(1) The use tax direct payment certificate shall be in a form prescribed by the board, and shall be signed by, and bear the name, address, and permit number of, the holder of the use tax direct payment permit.

(2) Once a use tax direct payment certificate has been issued by a holder of a use tax direct payment permit, it shall remain effective until revised or withdrawn by the holder of the permit or until the retailer or seller has received actual notice that the permit has been revoked by the board.

(3) A use tax direct payment certificate relieves a person selling property from the duty of collecting use tax only if taken in good faith from a person who holds a use tax direct payment permit. A

purchaser who issues a use tax direct payment certificate that is accepted in good faith by a seller or retailer of tangible personal property shall be the sole person liable for any sales tax and related interest and penalties with respect to any transaction that is subsequently determined by the board to be subject to sales tax and not use tax.

(4) Any person who holds a use tax direct payment permit and gives a use tax direct payment certificate to a seller or retailer shall, in addition to any applicable use tax liabilities, be subject to the same penalty provisions that apply to a seller or retailer.

(f) It is the intent of the Legislature that the board administer this part in a manner which assures that local use tax be received by the county, city, city and county, or redevelopment agency where the first use occurs.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for the State Board of Equalization to avoid an expensive and imprecise process of allocating local revenue, it is necessary that this act take effect immediately.

